

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20359
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

On May 11, 2007, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] proposing income tax, penalty, and interest for taxable years 2003, 2004, and 2005 in the total amount of \$26,560.

A timely protest and petition for redetermination was filed. An informal hearing has not been requested. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NODD.

[Redacted] and his wife failed to file their 2003 and 2004 individual income tax returns. [Redacted] also failed to file his 2005 individual income tax return. Because Tax Commission records show the taxpayers met the state income tax filing requirements and had not filed their Idaho returns for 2003 and 2004, and that [Redacted] had not filed his Idaho returns for 2005, the Bureau attempted to contact them for clarification. The taxpayers did not respond.

[Redacted].

Idaho Code § 63-3045(1)(a) states:

63-3045. Notice of redetermination or deficiency -- Interest.

(1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address

known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

The Bureau prepared the missing Idaho returns on behalf of the taxpayers and sent them an NODD. The taxpayers appealed the NODD. The taxpayers requested additional time to complete their returns, which was granted. Two subsequent extensions were also granted by the Bureau, but when the returns were not received, their file was transferred to the Legal/Tax Policy Division for administrative review. The taxpayers did not respond to a letter from the Tax Policy Specialist that outlined their appeal rights. A follow-up letter was also sent by the Policy Specialist with no response.

The [Redacted]. The Commission issued an NODD to the taxpayers on May 11, 2007, [Redacted] and that found in Tax Commission records. A formula was used to determine [Redacted] income for tax year 2005. The formula was based on the 1099-MISC income reported to [Redacted] in [Redacted] social security number for tax years 2003 and 2004.

According to [Redacted], neither one of the taxpayers filed federal income tax returns for 2003, 2004, or 2005. If a husband and wife elect to file a joint return for federal purposes, they are required to file a joint return for state purposes. When the election to file a joint return is not made on the federal return, the Tax Commission must issue assessments using the filing status of Married, Filing Separate with income and deductions equally divided between spouses according to Idaho's community property laws.

For tax year 2005, the NODD issued by the Bureau used the filing status of single for [Redacted]. However, according to statements made by [Redacted] now ex-spouse, it was discovered the taxpayers were still married in 2005. Therefore, the Commission modified the

NODD to reflect a filing status of Married, Filing Separate with a community property split of all income and deductions. The penalty and interest additions were calculated in conformity with Idaho Code §§ 63-3045 and 63-3046.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). The burden is on the taxpayer to show that the tax deficiency is erroneous. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

[Redacted] has provided nothing that would dissuade the Tax Commission from accepting the Bureau's determination of Idaho income and Idaho income tax for tax years 2003, 2004, and 2005.

WHEREFORE, the Notice of Deficiency Determination dated May 11, 2007, is hereby MODIFIED, APPROVED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the [Redacted] pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$5,665	\$1,416	\$1,632	\$ 8,713
2004	4,734	1,184	1,079	6,997
2005	3,952	988	664	<u>5,604</u>
			TOTAL DUE	<u>\$21,314</u>

Interest is computed through October 14, 2008.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2008.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2008, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
